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CREATOR:Chris Horner <chorner@cei.org> (Chris Horner <chorner@cei.org> [UNKNOWN]

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SUBJECT:: Requests for Reconsideration of Climate Report Denials under Data Quality

TO:Kenneth L. Peel (CN=Kenneth L. Peel/OU=CEQ/O=EOP@EOP [CEQ])

READ:UNKNOWN

TO:Paul R. Noe (CN=Paul R. Noe/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TO:Sherron R. White (CN=Sherron R. White/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TO:bart.marcois@hq.doe.gov (bart.marcois@hq.doe.gov [UNKNOWN])

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TEXT:

Please see the attached. I apologize for the volume (appx 33 pgs.), but these two documents are required to illustrate the ruses that OSTP and EPA have undertaken to shield the National Assessment on Climate Change and Climate Action Report, respectively, from the Data Quality Act's requirements.

Our reasoning, in short though exhaustively documented in our Requests and Appeals, is that NACC relies on climate projections based upon computer models that have been demonstrated to perform more poorly than a table of random numbers. This is not in dispute, as when presented with this assertion the National Oceanic and Atmospheric Administration (NOAA) confirmed it through its own tests. CAR relies upon NACC for its Chapter 6.

Both documents, therefore, fail the FDQA test of ???utility???, for reasons CEI amply documented. Arguably, as OSTP???s NACC production team was aware of this reality prior to producing the report, their intentional selection of two outlying models with such unacceptable performance satisfies the lack of ???objectivity??? threshold. Both Appeals are pending at the respective agencies.

OSTP denied CEI???s Request on the grounds that NACC is not ???information??? subject to FACA because OSTP did not in fact produce NACC, but it is the product of a FACA committee. While for the instant purposes the truthfulness of that claim is not an issue, please note that a substantial record of OSTP and subservient offices acknowledge that this is not accurate for, numerous reasons, again well documented by CEI in its Request and Appeal. For now please merely note that the statute authorizing NACC asserts that two agencies subservient to OSTP for purposes of the NACC ???shall prepare and submit to the President and the Congress an assessment which?????? 15 U.S.C. 2936. That is, by statute, OSTP produces any report purporting to be the National Assessment. If permitted to stand, OSTP???s argument establishes that FDQA permits a covered agency to merely convene a FACA committee to produce work in order to exempt its product from otherwise applicable data quality requirements.

EPA denied CEI???s Request on the grounds that CAR is not ???disseminated??? by EPA and thereby subject to FACA because EPA did not in fact produce CAR, but it is the product of the State Department : EPA

claims that it merely does State a favor by publishing CAR because EPA has superior web capabilities. While for these purposes the truthfulness of that claim is not an issue, please note that a substantial record exists demonstrating that this is not accurate, for numerous reasons amply documented in CEI's Request and Appeal. For now please note that EPA is the sole governmental office publishing or otherwise disseminating CAR, on its website not under a "Library" link but "Publications," and EPA manifested its production of CAR in two Federal Register notices (see, e.g., Federal Register, Vol. 66 No. 221, Thursday November 15, 2001) presumably because of EPA's advanced FR publishing capacity. Regardless, if permitted to stand, EPA's argument establishes that FDQA permits a covered agency to merely request another agency publish, post or otherwise disseminate its product in order to exempt otherwise applicable data quality requirements.

Certainly you see the commonality of these attempts, both clearly not supported by facts but both also representing agencies seeking to claim ???it???s the other guy???s fault???so the document should be exempt??? in order to avoid accountability under an otherwise applicable law. It is difficult to accept that Congress, and OMB, contemplated the permissibility of such simple ruses to escape FACA???s coverage. - FDQA OSTP Informa

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TEXT:

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